IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Crl.MC.No. 3455 of 2007()

(CRIME NO.13/2006 OF THIRUVALLA EXCISE RANGE)

PETITIONER: ACCUSED IN CP NO.87/2007

VIJAYAMMA, W/O.PRASANNAN,
THADATHEL HOUSE, KOTTOOR MURI, DAVIYOOR P.O.,
THIRUVALLA.

BY ADV. SRI.AJITH MURALI

RESPONDENT: COMPLAINANT IN CP NO.87/2007:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P. RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3455 of 2007

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Dated this the 15th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable under the Kerala Abkari Act. Investigation is complete. Final report has already been filed. The petitioner has not been arrested at the crime stage or thereafter. Cognizance has been taken. Committal proceedings have been registered. Coercive processes have been issued by the learned Magistrate against the petitioner. The petitioner apprehends imminent arrest.

2. According to the petitioner he is absolutely innocent. His absence earlier was not wilful. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself. Needless to say, the application of the petitioner must be considered in the light of the dictum in **Sukumari v. State of Kerala (2001 (1) KLT 22).** also.

(R.BASANT, JUDGE)

sj